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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

WAYMO LLC,

CASE NO. 3:17-cv-00939-WHA

Plaintiff,

**[PROPOSED] ORDER GRANTING
PLAINTIFF WAYMO LLC'S MOTION
FOR JURY INSTRUCTION BASED ON
SPOILATION**

vs.

UBER TECHNOLOGIES, INC.;
OTTOMOTTO LLC; OTTO TRUCKING
LLC,

Defendants.

CASE No. 3:17-cv-00939-WHA

[PROPOSED] ORDER GRANTING WAYMO'S MOTION FOR JURY INSTRUCTION BASED ON SPOILATION

1 Plaintiff Waymo LLC (“Waymo”) has filed a Motion for Jury Instruction Based on Spoliation
2 (the “Motion”).

3 Having considered the Motion, as well as any response thereto, the Court hereby **GRANTS**
4 the Motion in its entirety. **IT IS HEREBY ORDERED** that the jury will be given the following
5 instruction at trial:

- 6 1) Defendants had a duty to preserve relevant evidence, including text message
7 communications, collaboration platforms, and external hard drives and disks;
- 8 2) Despite this obligation, Defendants failed to preserve large volumes of
relevant emails and other documents;
- 9 3) Defendants acted in bad faith in failing to preserve the relevant documents;
and
- 10 4) the jury should presume that the communications, documents and other files
11 that Defendants failed to preserve would have been favorable to Waymo’s
case and unfavorable to Defendants’ case.

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13 **IT IS SO ORDERED.**

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15 Dated: November 13, 2017

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17 HON. WILLIAM ALSUP
United States District Court Judge

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